



3. On August 28, 2013, the Petitioner submitted medical expenses for eye care and prescriptions. The medical expenses were averaged over 6 months and budgeted beginning with his October FS budget and resulted in an increase in FS benefits of \$200 for October, 2013 and \$189/month from November, 2013 – February, 2014.
4. Petitioner has Social Security income of \$833/month and rent expense of \$397.50/month.
5. On February 14, 2014, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would decrease to \$136/month effective March 1, 2014. This was due to the agency discontinuing the medical expense deduction.
6. On March 5, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$152 per month for a two-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

In a fair hearing concerning the sufficiency of FS issued, the burden of proof is on the agency to demonstrate that it correctly computed the petitioner's FS allotments, and the petitioner must then rebut this evidence with evidence showing the agency was incorrect.

At the hearing, the Petitioner testified that he disputes the amount of his FS allotment as it is not sufficient to cover his food expenses due to the increasing cost of food. While I recognize that this is correct, I am bound to apply the regulations and do not have equitable authority to provide the relief sought by the Petitioner. I did review the agency's budget calculations. I note that the reason the Petitioner's FS allotment decreased was the agency ending the medical expense deduction that had been previously allowed. The Petitioner indicated that he has additional medical expenses to submit. This will affect his future benefits. With regard to the reduction in benefits that occurred effective March 1, 2014, the agency properly calculated the allotment based on the Petitioner's income and shelter expense.

### **CONCLUSIONS OF LAW**

The agency properly reduced the Petitioner's FS benefits effective March 1, 2014.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of April, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on April 28, 2014.

Washington County Department of Social Services  
Division of Health Care Access and Accountability